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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिस से कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 12th February, 1970|*Magha* 23, 1891 (*Saka*)

The following President's Acts are published for general information:—

THE RAJENDRA AGRICULTURAL UNIVERSITY ACT, 1970

No. 11 OF 1970

Enacted by the President in the Twenty-first Year of the Republic of India.

An Act to establish and incorporate University for the development of agriculture, animal husbandry and allied sciences in the State of Bihar.

32 of 1969. In exercise of the powers conferred by section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1969, the President is pleased to enact as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Rajendra Agricultural University Act, 1970.

(*2*) It shall extend to the whole of the State of Bihar.

(*3*) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "Academic Council" means the Academic Council of the University;

(*2*) "agriculture" means the basic and applied sciences of soil and water management, crop production including production of all the garden crops, animal husbandry including veterinary and dairy science, fisheries, home economics, agricultural engineering and technology, marketing and processing of agricultural and animal husbandry produce, land use and management;

(*3*) "allied science" includes forestry, sericulture, bee-keeping, lac cultivation, social sciences and subjects pertaining to agricultural technology;

(*4*) "Associate Dean" means the Principal of the College;

(*5*) "authority" means any authority of the University as specified in section 9;

(*6*) "Board" means the Board of Management of the University as constituted in section 10;

(*7*) "Chancellor" means the Chancellor of the University;

(*8*) "college" means a college of the University controlled and managed by it in accordance with the provisions of this Act;

(*9*) "Chairman" means the Chairman of the post-graduate department of the University;

(*10*) "Comptroller" means the Comptroller of the University;

(*11*) "Dean" includes Dean of the Faculty and Deans of Post-Graduate studies;

(*12*) "Director" includes Director of Research and Director of Extension Education;

(*13*) "Extension Education" means the educational activities concerned with the training of farmers and home-makers and other groups serving agriculture, animal husbandry and other allied sciences, in improved agricultural practices and the training of workers required for the conduct of these educational activities or for scientific technology related to agriculture, animal husbandry and allied sciences and includes endeavour to work through meetings, demonstrations and other methods for teaching improved agricultural practices and the training of workers required for the conduct of these educational activities;

(*14*) "Faculty" means a Faculty of the University;

(*15*) "Head" means the head of the College department;

(*16*) "hostel" means a place of residence for students of the University maintained or recognised by the University either as a part or separate from a college;

(*17*) "officer" means an officer of the University as specified in section 18 or any other person in the employment of the University designated as an officer by the Statutes;

(*18*) "prescribed" means prescribed by Statutes or Regulations;

(*19*) "Principal" means the head of a College;

(*20*) "Registrar" means the Registrar of the University;

(*21*) "Scheduled Castes" means the Scheduled Castes specified in Part III to the Schedule to the Constitution (Scheduled Castes) Order, 1950;

(*22*) "Scheduled Tribes" means the Scheduled Tribes specified in Part III to the Schedule to the Constitution (Scheduled Tribes) Order, 1950;

(*23*) "Statutes" and "Regulations" mean respectively the Statutes and Regulations of the University for the time being in force;

(*24*) "student of the University" means the person enrolled in the University for taking a course of study for degree, diploma or other academic distinction duly instituted;

(*25*) "teacher" means a person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research or extension education and include a person who may be declared by the Statutes to be a teacher;

(*26*) "University" means the Rajendra Agricultural University established and incorporated under section 3; and

(*27*) "Vice-Chancellor" means the Vice-Chancellor of the University.

CHAPTER II

THE UNIVERSITY

Establishment and incorporation of the University.

3. (*1*) There shall be established in and for the State of Bihar a University by the name of the Rajendra Agricultural University.

(*2*) The first Chancellor, Vice-Chancellor, members of the Board of Management and the Academic Council and other authorities and officers as set forth in this Act or as provided in the Statutes and all persons who may hereafter become such officers or members or authorities so long as they continue to hold such office or membership, shall constitute a body corporate by the name of the University specified in sub-section (*1*).

(*3*) The University shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it for the purpose of the University, and to borrow money from the Central Government, State Government or from any corporate body approved by the State Government and to contract and do all things necessary for the purpose of this Act:

Provided that the University shall not lease, sell or otherwise transfer any immovable property transferred to the University by the State Government without prior approval of the State Government.

(*4*) In all suits and other legal proceedings by or against the University, the pleading shall be signed and verified by the law officer appointed from time to time by the University, and all processes in such suits and proceedings shall be issued to and served on such law officer.

(*5*) The headquarters of the University shall be at such place as the State Government may, by notification in the Official Gazette, specify.

Territorial jurisdiction.

4. (1) With respect to teaching at the University or College level, research and extension education in the field of agriculture, animal husbandry and allied sciences, the territorial jurisdiction and responsibility of the University shall extend to the entire State of Bihar.

(2) The University may assume responsibility for the maintenance of agriculture, animal husbandry and fishery training centres and research and experimental stations and for the programme of training of field extension workers therein and for the establishment, development and operation of Agricultural polytechnics as may be required in various parts of the State.

(3) All colleges, research and experimental stations, or other institutions coming under the jurisdiction and authority of the University shall come in as constituent units of the University under the full management and control of the University officers and authorities and no unit shall be recognised as an affiliated unit.

(4) Notwithstanding anything contained in any other law for the time being in force, no educational institution situated within the State and run by the Government imparting instruction in agriculture and animal husbandry, for bachelors degree and above, shall be associated in any way with or be admitted to any privilege of any other University incorporated by law in India and such privilege granted by any such other University to any educational institution within the State prior to the commencement of the Act, shall be deemed to be withdrawn on the commencement of the Act.

(5) The University shall have exclusive jurisdiction throughout the whole State to provide for instruction, teaching and training in agriculture and animal husbandry and notwithstanding anything contained in the law relating to incorporation of any other University in the State, no University shall be competent to provide for instruction, teaching and training in agriculture and animal husbandry in the State.

(6) No University other than the University shall be competent to award any degree for research in agriculture and animal husbandry carried on in the State unless registered for such degree before the establishment of the University.

(7) The University may have collaboration research projects with other Universities having multi-disciplinary approach.

Objects of the University.

5. The University shall be established and incorporated for the following purposes, namely:—

(1) making provision for imparting education in different branches of agriculture, animal husbandry, fisheries, forestry, agricultural engineering, home economics and any other allied branches of learning and scholarship, which the University may find necessary to include;

(2) furthering the advancement of learning and prosecution of research in agriculture and animal husbandry;

(3) undertaking the extension of such sciences specially to the rural people of the State; and

(4) such other purposes as the University may from time to time determine.

Admission to the University.

6. (1) The University shall, subject to the provisions of this Act and the Statutes, be open to all persons:

Provided that nothing in this section shall,—

(a) require the University to admit to any course of study any person who does not meet the prescribed academic standards for admission or to retain on the rolls of the University persons whose academic records are below the minimum standards required for the award of a degree or whose personal conduct is such as to be prejudicial to the purposes of the University or to the rights and privileges of other students and staff;

(b) be deemed to require the University to admit to any course of study a larger number of students than can be accommodated in the available faculties of the University or in any particular college or department as determined by the Academic Council.

Explanation.—The number of students to be admitted, as decided by the Board, will be in accordance with the demand of the State Government as far as practicable.

(2) Subject to the forgoing provisions, the University shall, according to the decision of the Board, reserve in colleges seats for Scheduled Castes, Scheduled Tribes and backward classes, provided that no such person shall be entitled to be admitted to the University unless he meets the standards for admission laid down by the University in respect of such candidates.

Powers and functions of the University.

7. The University shall have the following powers and functions, namely:—

(1) to provide for instruction in agriculture, animal husbandry and other allied branches of learning as the University may deem fit;

(2) to provide for conduct of research in agriculture, animal husbandry and allied branches of learning;

(3) to provide for dissemination of the findings of research and technical information through extension education;

(4) to institute degrees, diplomas and other academic distinctions;

(5) to institute courses of study and hold examinations and confer degrees, diplomas, certificates and other academic distinctions on persons who have—

(i) pursued a course of study as prescribed, or

(ii) carried out research in the University or institution recognised in this behalf by the University as may be prescribed;

(6) to confer honorary degrees and other distinctions as may be prescribed;

(7) to provide lectures and instructions for field workers, farmers and other persons not enrolled as regular students of the University and to grant certificates to them as may be prescribed;

(8) to operate with other Universities and authorities in such manner and for such purposes as the University may determine, subject to the limitations set forth in section 4;

(9) to take over and maintain colleges and hostels relating to agriculture, animal husbandry, fisheries, home economics and agricultural engineering;

(10) to maintain laboratories, libraries, research stations and museums for teaching, research and extension education;

(11) to institute teaching, research and extension education posts and to appoint persons to such posts;

(12) to determine qualifications for teachers and to recognise persons as qualified to give instruction in a college or to carry out research and extension education in agriculture, animal husbandry and allied sciences;

(13) to create administrative and other posts and to appoint persons, to such posts;

(14) to institute and award fellowships, scholarships and prizes in accordance with the Statutes;

(15) to institute and maintain residential accommodation for students and staff of the University;

(16) to fix, demand and receive such fees and other charges as may be prescribed;

(17) to supervise and control the residence, conduct and discipline of the students of the University, and to make arrangements for promoting their health and welfare; and

(18) to do all such acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University.

Visitation and inspection.

8. (1) The Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipments and any institution, college or hostel maintained or administered by the University, of the teaching and other work conducted by the University, or under its auspices and of the conduct of any other functions of the University, and to cause an enquiry to be made in respect of any matter connected with administration and finances of the University.

(2) The Chancellor shall, in every case, give due notice to the University of his intention to cause an inspection or enquiry to be made, and the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or enquiry.

(3) The Chancellor shall communicate to the University the views of the State Government with reference to the results of such inspection or enquiry and may after ascertaining the opinion thereon of the University, advise the University upon the action to be taken and fix a time limit for taking such action.

(4) The University shall, within the time limit so fixed, report to the Chancellor the action which has been taken or is proposed to be taken on the advice tendered by the Chancellor.

(5) The Chancellor may, where action has not been taken by the University to the satisfaction of the Chancellor within the time limit fixed and after considering any explanation furnished or representations made by the University, issue such directions as the Chancellor may think fit and the University shall comply with such directions.

(6) Notwithstanding anything contained in the preceding sub-sections, if at any time the Chancellor is of the opinion that the affairs of the University are not managed in furtherance of the objects of the University or in accordance with the provisions of this Act or the Statutes or regulations or the special measures required to maintain the standards of University teaching, examination, research or extension, he may indicate to the University any matter in regard to which he desires an explanation, and call upon the University to offer such explanations, within such time as may be specified by the Chancellor, and if the University fails to offer any explanation within the time specified or offers an explanation which, in the opinion of the Chancellor, is unsatisfactory, the Chancellor may issue such instructions as appear to him to be necessary and desirable in the circumstances of the case, and may exercise such powers as he may consider necessary for giving effect to those instructions.

(7) The University shall furnish such information relating to the administration of the University as the Chancellor may require.

CHAPTER III

AUTHORITIES OF THE UNIVERSITY

9. The following shall be the authorities of the University, namely:— Authorities of the University.

(1) the Board of Management;

(2) the Academic Council;

(3) the Board of Studies of different Faculties; and

(4) such other bodies of the University as may be declared by the Statutes to be the authorities of the University.

10. (1) The Chancellor shall, as soon as may be after the first Vice-Chancellor is appointed under section 20, take action to constitute the Board of Management. Constitution of the Board of Management.

(2) The Board shall consist of the following members, namely:—

(i) The Vice-Chancellor;

(ii) Agriculture Production Commissioner;

(iii) Financial Commissioner;

(iv) Director of Agriculture;

(v) Director of Animal Husbandry;

(vi) Chief Conservator of Forests;

(vii) two eminent agricultural scientists with rich background of agricultural research or education to be nominated by the Chancellor;

(viii) two eminent scientists (other than agricultural scientists) and educationists to be nominated by the Chancellor;

(ix) a representative of the Indian Council of Agricultural Research;

(x) one crop farmer to be nominated by the Chancellor;

(xi) one live-stock farmer to be nominated by the Chancellor; and

(*xii*) a member of the Bihar State University Commission constituted under section 48A of the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Act, 1960. Bihar Act XIV of 1960.

(3) The Vice-Chancellor shall be *ex officio* Chairman and the Registrar the non-member Secretary to the Board.

(4) The term of office of members of the Board, other than *ex officio* members, shall be three years and a member shall be eligible to serve for more than one term.

(5) In the eventuality of the term of majority of the members of the Board ending almost all at a time rendering it difficult to hold a meeting of the Board in the absence of fresh nomination, the Board under the express permission of the Chancellor may continue to function for a period not exceeding six months at a time.

(6) The members of the Board other than officers of the University shall not be entitled to receive any remuneration from the University except such daily and travelling allowances as may be prescribed.

(7) No officer or other employee of the University shall be eligible to be a member of the Board under clause (*vii*), clause (*x*) or clause (*xi*) of sub-section (2).

Powers and duties of the Board.

11. (*1*) The Board shall exercise and perform the following powers and functions, namely:—

(*a*) to review and consider the financial requirements and estimates for the University and approve its budget;

(*b*) to approve the recommendations for appointment of officers, teachers and other staff of the University in the manner prescribed;

(*c*) to provide for the administration of any funds placed at the disposal of the University for the purposes intended;

(*d*) to arrange for the investment and withdrawal of funds of the University;

(*e*) to borrow money for capital improvements and make suitable arrangements for its repayment;

(*f*) to provide for accepting, acquiring, holding and disposal of property on behalf of the University;

(*g*) to direct the form and use of the common seal of the University;

(*h*) to appoint such committees, either standing or temporary, as the Board may consider necessary, and establish the terms of reference thereof within the limitations of this Act and the Statutes;

(*i*) to determine and regulate all policies relating to the University in accordance with this Act and the Statutes;

(*j*) to make financial provision for instruction, teaching and training in such branches of learning and courses of study as determined by Academic Council within the purposes of this Act, and for research and for the advancement and dissemination of knowledge;

(*k*) to provide for the establishment and maintenance of colleges, hostels, laboratories, experimental farms and other facilities necessary for carrying out the purposes of this Act;

(*l*) to make provision for instituting and conferring degrees, diplomas and other academic distinctions;

(*m*) to provide for institution, maintenance and award of scholarships, fellowships, studentships, medals, prizes, etc.;

(*n*) to accept on behalf of the University trusts, bequests and donations;

(*o*) to meet at such times and in such places as it considers necessary:

Provided that it shall hold regular meetings at least every two months and at least half of such meetings shall be held at some branch of the University; and

(*p*) exercise such other powers and perform such other duties not inconsistent with this Act or Statutes as may be necessary for carrying out the purposes of the Act; and

(*2*) The Board may, for purposes of consultation invite any person having experience or special knowledge on any subject under consideration to attend its meeting. Such person may speak in, and otherwise take part in, the proceedings of such meeting but shall not be entitled to vote at any such meeting. Any person so invited shall be entitled to such allowances for attending the meeting as may be prescribed.

Standing Committees and other committees.

12. (*1*) For efficient and quick disposal of the business of the Board, the Board may set up one or more Standing Committees or other committees and delegate to them such powers and duties of the Board as the Board may consider fit.

(*2*) Other authorities of the University shall also have power to appoint committees which may, unless otherwise provided in this Act or Statutes, consist of the members of the authority concerned and such other persons as it may think fit.

The Academic Council.

13. (*1*) The Academic Council shall be in charge of the academic affairs of the University and shall, subject to the provisions of this Act and the Statutes, superintend, direct and control and be responsible for the maintenance of standards of instruction, education, examination and other matters connected with the conferment of degress (including honorary degrees) or award of diplomas and shall exercise such other powers and perform such other duties as may be conferred or imposed on it by the Statutes and shall advise the Vice-Chancellor on all academic matters.

(*2*) The Academic Council shall consist of the following members, namely:—

(*i*) the Vice-Chancellor who shall be the Chairman;

(*ii*) the Deans;

(*iii*) the Directors;

(*iv*) Principals or Associate Deans of colleges;

(*v*) all Chairmen of Post-graduate Departments;

(*vi*) three teachers of colleges on terms and conditions prescribed by the Statutes;

Bihar Act XIV of 1960. Bihar Act III of 1962. Bihar Act IV of 1962.

(*vii*) five teachers having special knowledge or practical experience in respect of subjects basic to agriculture, animal husbandry and other allied sciences, one from each of the Universities, established under the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Act, 1960, the Patna University Act, 1961 and the Magadh

University Act, 1961 to be nominated by the respective Vice-Chancellors, on terms and conditions prescribed by the Statutes;

(*viii*) the Registrar who shall be the Secretary; and

(*ix*) such other members as may be prescribed by the Board.

(*3*) The Academic Council shall have power to co-opt as members two persons having special knowledge or practical experience in respect of subject-matter of any particular business which may come before the Council for consideration and the members so co-opted shall have all the rights of the members of the Council in regard to the transaction of the business in relation to which they may be co-opted except the right to vote.

(*4*) All members of the Academic Council other than *ex officio* members and members referred to in sub-section (*3*) shall hold office for a term prescribed by the Statutes.

(*5*) One-half of the number of members of the Academic Council shall form a quorum.

Powers, functions and duties of the Academic Council.

14. (*1*) The Academic Council shall, subject to the provisions of this Act and Statutes, have general control on teaching and other educational programmes within the University and shall be responsible for the maintenance of standards thereof.

(*2*) The Academic Council shall have power to make Regualtions consistent with this Act and the Statutes relating to all academic matters subject to its control and to amend or repeal such Regulations.

(*3*) In particular, and without prejudice in the generality of the foregoing powers, the Academic Council shall have power—

(*i*) to advise the Board on all academic matters including the control and management of libraries;

(*ii*) to make recommendations for the institution of professorships, associate professorships, readerships, assistant professorships and other teaching posts including posts in research and extension education and in regard to the duties thereof;

(*iii*) to formulate, modify or revise schemes for the constitution or reconstitution of departments of teaching, research and extension education;

(*iv*) to make Regulations regarding the admission of students to the University, and determine the number to be admitted;

(*v*) to make Regulations relating to the courses of study leading to degrees, diplomas and certificates;

(*vi*) to make Regulations relating to the conduct of examinations and to maintain and promote standards;

(*vii*) to make recommendations regarding post-graduate teaching, research and extension education;

(*viii*) to make recommendations regarding the qualifications to be prescribed for teachers in the University;

(*ix*) to recommend to the Board the conferment of honorary degrees; and

(*x*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by or under the provisions of this Act.

15. (*1*) The University shall have initially the Faculties of Agriculture and Animal Husbandry and as soon as may be, it shall also have the Faculties of Basic Sciences and Humanities, and such other Faculties as may be prescribed. The Faculties.

(*2*) Each Faculty shall comprise such departments of study as may be prescribed by the Statutes.

(*3*) Each Faculty shall consist of such members and shall have such powers and perform such duties as may be prescribed by the Statutes.

(*4*) There shall be a Board of Studies of each Faculty, the constitution and powers of which shall be as prescribed by the Statutes.

(*5*) Each post-graduate department of the University shall have a Chairman and each college department shall have a Head, whose appointment, powers and duties shall be as prescribed by the Statutes and who shall be responsible to the Dean or the Associate Dean, as the case may be, for the proper organisation and working of the department and shall be responsible to the Directors of Research and Extension Education, respectively, for the Research and Extension Education entrusted to his department.

16. (*1*) Save as otherwise provided in this Act, if any member, other than *ex officio* member, of any authority or other body of the University is unable by reason of his death, resignation, removal or otherwise to complete his full term of office, the vacancy so caused shall, as soon as convenient, be filled by the appointment, election or co-option, as the case may be, and the person so appointed, elected or co-opted, shall fill such vacancy for the unexpired portion of the term for which the member, in whose place such person is appointed, elected or co-opted, would therewise have continued in office. Provision in relation to membership of authorities.

(*2*) The Board may remove any person from membership of any authority or body of the University on the ground that such person has been convicted of an offence involving moral turpitude:

Provided that no order for removal shall be passed against any person without giving him an opportunity of being heard.

(*3*) A person who is a member of any authority or body of the University as a representative of another body, whether of the University or not, shall cease to be a member of such authority or body if, before the expiry of the term of his membership he ceases to be a member of that other body by which he was appointed or elected:

Provided that he may continue to hold his office till his successor is appointed or elected, as the case may be.

(*4*) Whenever any person becomes a member of any authority or body of the University by virtue of the office held by him, he shall forthwith cease to be a member of such authority or body if he ceases to hold such office before the expiry of the term of his membership:

Provided that he shall not be deemed to have ceased to hold his office merely by reason of his proceeding on leave for a period not exceeding four months.

(5) Any member, other than *ex officio* members of any authority or body of the University, may resign his office by letter addressed to the Vice-Chancellor.

(6) Any officer of the University whether salaried or otherwise, other than Dean or Director, may resign his office by letter addressed to the Vice-Chancellor and such resignation shall take effect from the date on which the same is accepted by the authority competent to fill the vacancy or on the expiry of three months from the date of the receipt by the Vice-Chancellor, whichever is earlier.

Validity and protection of certain acts.

17. (1) No act or proceeding of any authority or other body of the University shall be invalid merely by reason of the existence of any vacancy among its members or by reason of some person having taken part in the proceedings who is subsequently found not to have been entitled to do so.

(2) Save as otherwise provided in this Act, all acts and orders in good faith done and passed by the University or any of its authorities shall be final and no suit shall be instituted against or damages claimed from the University or its authority for anything done or purported to be done in pursuance of this Act or the Statutes or the Regulations.

(3) No suit, prosecution or other proceedings shall lie against any officer or other employee of the University for any act done or purported to be done under this Act or the Statutes without the previous sanction of the Board.

(4) No officer or other employee of the University shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties or in discharge of the functions imposed by or under this Act.

CHAPTER IV

OFFICERS

Officers of the University.

18. The following may be the officers of the University, namely:—

(a) the Chancellor;

(b) the Vice-Chancellor;

(c) the Registrar;

(d) the Comptroller;

(e) the Deans;

(f) the Directors; and

(g) such other persons in the service of the University as may be declared by the Statutes to be the officers of the University.

The Chancellor.

19. (1) The Governor of the State of Bihar shall be the Chancellor of the University.

(2) The Chancellor shall be the Head of the University and shall, when present, preside at the convocation of the University.

(3) Every proposal to confer an honorary degree shall be subject to the confirmation of the Chancellor.

(4) The Chancellor may—

(*i*) call for any papers for information relating to the affairs of the University; and

(*ii*) for reasons to be recorded, refer any matter except a matter falling under section 43 for reconsideration to any officer or authority of the University that has previously considered such matter.

(5) The Chancellor may by an order in writing annul any proceeding of the office or authority of the University which is not in conformity with this Act, the Statutes or the Regulations:

Provided that before making any such order he shall call upon the officer or authority concerned to show cause why such an order should not be made and if any cause is shown within the time specified by him in this behalf, he shall consider the same.

(6) The Chancellor shall exercise such other powers and perform such other duties as may be conferred or imposed on him by this Act or the Statutes.

The Vice Chancellor.

20. (*1*) The Vice-Chancellor shall be a whole-time officer of the University who shall be appointed by the Chancellor out of a panel of names recommended by a Selection Committee consisting of the Chancellor, the Director General of Indian Council of Agricultural Research and Chairman of the University Grants Commission.

(2) The Chancellor shall be the Chairman of the Selection Committee which may establish its own procedure for assembling names of possible candidates for consideration and for consultation with and receiving suggestions from individuals or bodies it considers appropriate.

(3) The Vice-Chancellor shall hold office for a term of three years and shall be eligible for re-appointment for one more term not exceeding three years:

Provided that the Chancellor may allow him to continue in office until his successor is appointed but this period shall not exceed six months.

(4) The Vice-Chancellor may resign his office by writing under his hand addressed to the Chancellor which shall be delivered to the Chancellor ordinarily sixty days prior to the date on which the Vice-Chancellor wishes to be relieved from his office, but the Chancellor may relieve him earlier and the resignation shall take effect from the date of relief.

(5) In the event of a temporary vacancy in the post of Vice-Chancellor or in his absence on leave or for any other reason, the Chancellor may appoint any officer of the University to perform the duties of the Vice-Chancellor.

(6) If, in the opinion of the Chancellor, the Vice-Chancellor wilfully omits or refuses to carry out the provisions of this Act or abuses the power vested in him and if it appears to the Chancellor that the continuance of the Vice-Chancellor in office is detrimental to the interest of the University, the Chancellor may, after consultation with the Board, by order remove the Vice-Chancellor after giving him an opportunity of showing cause against the action proposed to be taken in regard to him.

Powers and duties of the Vice-Chancellor.

21. (*1*) The Vice-Chancellor shall be the principal executive and academic officer of the University and *ex officio* Chairman of the Board and of the Academic Council and he shall, in the absence of the Chancellor, preside at the convocation of the University and confer degrees on persons entitled to receive them.

(*2*) The Vice-Chancellor shall exercise general control over the affairs of the University and shall be responsible for the due maintenance of discipline in the University.

(*3*) The Vice-Chancellor shall convene meetings of the Board and the Academic Council.

(*4*) The Vice-Chancellor shall ensure the faithful observance of the provisions of this Act and the Statutes and the Regulations.

(*5*) The Vice-Chancellor shall be responsible for the presentation of the annual financial estimates and the annual accounts and balance sheet to the Board.

(*6*) The Vice-Chancellor may take any action in any emergency which in his opinion calls for immediate action, and he shall, in such a case and as soon as may be thereafter, inform the authority which will ordinarily have dealt with the matter about the action taken and if the authority disagrees with the action of the Vice-Chancellor the matter shall be referred to the Chancellor whose decision shall be final.

(*7*) If the Vice-Chancellor is satisfied that a decision of the Board is not in the best interest of the University he shall refer it to the Chancellor whose decision shall be final.

(*8*) Where any action taken by the Vice-Chancellor under sub-section (*6*) affects any person in the service of the University to his disadvantage such person may prefer an appeal to the Board within thirty days from the date on which such person has been served with a notice of the action taken.

(*9*) Subject to the provisions of the preceding sub-sections the Vice-Chancellor shall give effect to the orders of the Board regarding the appointments, promotions, suspension and dismissal of officers, teachers and other employees of the University.

(*10*) The Vice-Chancellor shall be responsible for the proper administration of the University and for a close co-ordination and integration of teaching, research and extension education.

(*11*) The Vice-Chancellor may appoint, under intimation to the Board any suitable person temporarily for a period not exceeding six months in a vacancy of an officer of the University referred to in clauses (*c*) to (*g*) of section 18.

(*12*) The Vice-Chancellor shall exercise such other powers as may be prescribed for carrying out the purposes and provisions of this Act.

Extra-ordinary powers of of the first Vice-Chancellor.

22. (*1*) The first Vice-Chancellor shall, for a period of six months from the date of his appointment or such shorter period as may be determined by the Chancellor, have the following powers, namely:—

(*i*) with the previous approval of the Chancellor, to make the first Statutes to provide for functioning of the University;

(*ii*) with the previous approval of the Chancellor, to constitute provisional authorities and bodies and on their recommendation make rules for the conduct of the work of the University;

(*iii*) subject to the control of the Chancellor, to make such financial arrangements and incur such expenditure as may be necessary to enable this Act or any part thereof to be brought into operation;

(*iv*) with the previous approval of the Chancellor, to make such appointments as may be necessary to enable this Act or any part thereof to be brought into operation;

(*v*) with the previous approval of the Chancellor, to appoint committees that he may think fit to discharge such of the functions as he may direct; and

(*vi*) to exercise all or any of the powers conferred on the Board by this Act or the Statutes.

(*2*) Any order passed by the Vice-Chancellor in exercise of the powers conferred on him by clauses (*ii*), (*iv*) and (*v*) of sub-section (*1*) shall continue to have effect after the expiry of the period specified under sub-section (*1*) until it is modified or set aside by the authority or body competent to deal with it in accordance with the provisions of this Act.

Other officers of the University—General terms and conditions.

23. (*1*) An officer of the University referred to in clauses (*c*) to (*g*) of section 18 shall be a whole-time officer of the University and shall be appointed by the Vice-Chancellor with the approval of the Board.

(*2*) The salary and allowances and other conditions of service of such an officer shall be as prescribed.

Other officers of the University—Duties.

24. (*1*) *Registrar.*—(*a*) The Registrar shall be *ex officio* Secretary of the Board of Management and of the Academic Council. He shall place before them such information as may be necessary for the transaction of business.

(*b*) The Registrar shall be responsible for the due custody of the common seal of the University.

(*c*) The Registrar shall keep a permanent record of all courses and curricula and related information.

(*d*) The Registrar shall be responsible for maintaining a permanent record of the academic performance of the students of the University including the courses taken, credits obtained, degrees awarded, prizes or other distinctions won, and other items pertaining to the academic performance of the students.

(*2*) *Comptroller.*—The Comptroller shall be responsible to the Vice-Chancellor for preparation of the budget and statement of accounts of the University. He shall undertake revision of the budget where necessary He shall manage the funds and investments of the University and shall advise the Vice-Chancellor with regard to the financial policy of the University. He shall be responsible for ensuring that expenditure is made as authorized in the budget.

(*3*) *Dean.*—(*a*) The Dean shall be the Chairman of the Board of Studies or the Faculty and shall be responsible to the Vice-Chancellor for the organisation and implementation of the teaching programme of the Faculty.

(b) The Dean of Post-graduate Studies, when appointed, shall co-ordinate post-graduate studies in all colleges, departments and sections of the University.

(4) *Director.*—(a) The Director of Research shall be responsible for the direction and co-ordination of research programme as laid down in section 26 and efficient working of the research stations.

(b) The Director of Extension Education shall be responsible for the agricultural extension education programme as laid down in section 27.

(5) Subject to the provision of this Act, an officer of the University referred to in clauses (c) to (g) of section 18 shall perform such other duties as may be prescribed or as may be assigned to him from time to time by the Board or the Vice-Chancellor.

CHAPTER V

SERVICE CONDITIONS OF TEACHERS AND STAFF

Service conditions.

25. Subject to the provisions of the Act, the appointment, procedure for selection, pay and allowances, and other service conditions of teachers and members of the staff of the University shall be as prescribed.

CHAPTER VI

RESEARCH AND EXTENSION

Agricultural research programme.

26. (1) An Agricultural Research programme shall be established in the University and, subject to the provisions of this Act and the Statutes, the University shall carry on research directed primarily to the problems of agriculture and allied sciences for the purpose of aiding the development of agriculture and for the benefit of the rural population of the State.

(2) The University through its research organisation shall be the principal agency of control over research activities in agriculture in the State.

(3) The existing research organisations of the State Departments of Agriculture and Animal Husbandry shall be transferred to the University with effect from such date as the State Government may, by notification in the Official Gazette, specify.

(4) Research facilities, personnel and budget previously assigned to the Directorates of Agriculture and Animal Husbandry of the State Government shall be transferred to the University on the date specified under sub-section (3).

Agricultural Extension Education programme.

27. (1) An Agricultural Extension Education programme shall be established in the University and shall, subject to the provisions of this Act and the Statutes, make useful information based upon the findings of research available to farmers and others to help and solve their problems. It shall conduct demonstrations and training programmes for the benefit of students and farmers. Extension education shall be co-ordinated with the other functions of the University and other appropriate agencies of the State.

(2) The University shall be responsible for the Agricultural Extension Education activities in the State necessary to disseminate and demonstrate to cultivators the findings of agricultural research on improved practices essential to improve rural living and to increase agricultural production with special emphasis on food production and utilisation and the University will also undertake multiplication of nucleus seeds of improved varieties evolved or introduced by the research organisation.

(3) The programme shall be developed under the guidance of the Director of Extension Education and for this purpose all subject-matter specialists of the department of Agriculture shall be transferred to the University.

Co-ordination of teaching, research and extension education and integration of functions and curricula and of services.

28. (1) In consultation with the appropriate officers of the University the Vice-Chancellor shall be responsible for taking such steps as may be necessary for the full co-ordination of teaching, research and extension education activities of the University.

(2) The Vice-Chancellor shall be responsible, working through the appropriate officers of the University, for seeing that conditions are established whereby there is the maximum feasible progress in the development of new information and technology in the natural, physical and social sciences related to agriculture, animal husbandry and allied sciences.

(3) The Vice-Chancellor shall be responsible, working through the appropriate officers and staff of the University, to see that there is an appropriate inter-relation of the different curricula and courses offered in the different Faculties of the University so as to avoid unnecessary duplication of functions between Faculties and provide the students with the best course offerings and faculty contacts feasible within the University's resources and talents.

(4) The University shall develop its programme of research and extension education keeping in view the needs of the State and provide the appropriate technical support and consultative advice to State Government Departments engaged in agricultural development work.

CHAPTER VII

FUNDS AND ACCOUNTS

University funds and grants.

29. (1) The University shall have a General Fund to which shall be credited—

(i) its income from fees, emoluments and grants;

(ii) contributions or grants made by the Government on such conditions as it may impose;

(iii) grants donations and benegactions; and

(iv) other receipts.

(2) The University shall form a fund called the Foundation Fund from contributions and grants made by the Central Government and the State Government for being credited to that Fund and such other sums from the University which may be credited to the said Fund.

(3) The monies in the Foundation Fund shall be invested in the Securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882.

2 of 1882.

(4) The University shall furnish such statements, accounts, reports and other particulars as the State Government may require relating to any grant made by that Government and shall take such action and furnish such statements, accounts, reports and other particulars relating to the utilisation of any grant within such time and in such manner as the State Government may direct.

(5) It shall be competent for the University in furtherance of its objectives to accept grants from the Government of Bihar or any other State Government or the Central Government or statutory bodies, or endowments or donations under such conditions as may be agreed upon between the University and the Government or donor.

(6) The University may have such other funds, as may be prescribed by the Statutes.

Pension, insurance and provident fund.

30. (1) The University shall constitute for the benefit of its officers, teachers, clerical staff and other employees in such a manner and subject to such conditions as may be prescribed, such pension, insurance and provident funds as it may deem fit.

(2) For such pension, insurance and provident funds so constituted by the University, the State Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such funds as if it were a Government provident fund: 19 of 1925.

Provided that the University shall have power in consultation with the Finance Committee of the Board to invest the provident fund amount in such manner as it may determine.

(3) Persons in State Government services transferred to the University shall be governed under such terms and conditions as may be agreed to between the University, the State Government and the incumbent.

Management of funds.

31. The General Fund, Foundation Fund and other funds of the University shall be managed as prescribed.

Government grants.

32. The State Government shall, every year, make the following lump sum grants to the University, namely:—

(i) a grant not less than the net expenditure incurred in the State of Bihar on such of the activities of the institutions of the agriculture, animal husbandry and other Government Departments as are transferred to the University;

(ii) a grant not less than the estimated net expenditure of pay and allowances of the staff, contingencies, supplies and services of the University other than in respect of the activities in various organisations referred to above in clause (i); and

(iii) a grant to meet such additional items of expenditure, recurring and non-recurring, as the State Government deem necessary for the proper functioning of the University.

33. (1) The Board shall constitute a Finance Committee consisting of— Finance Committee.

(i) the Vice-Chancellor;

(ii) two representatives of the State Government in the Departments of Agriculture, and Finance not below the rank of a Deputy Secretary;

(iii) a Dean or a Director, by rotation, as prescribed by Statutes;

(iv) one Chairman of a University Department, by rotation, as prescribed by Statutes; and

(v) one nominee of the Board who should be a non-official member of the Board.

(2) The Finance Committee shall have the following powers, namely:—

(i) to examine the annual accounts of the University and to advise the Board thereon;

(ii) to examine the annual budget estimates and to advise the Board thereon;

(iii) to review the financial position of the University from time to time;

(iv) to make recommendations to the University on all matters relating to the finances of the University; and

(v) to make recommendations to the Board on all proposals involving expenditure in excess of the amount provided in the budget.

34. (1) The annual accounts of the University shall be prepared by the Comptroller under the direction of the Vice-Chancellor and all the money accruing to or received by the University from whatever source and all amount disbursed and paid by the University shall be entered in the accounts. Accounts and audit.

(2) The accounts of the University shall, once at least in every year and at intervals of not more than 15 months, be audited by the Comptroller and Auditor-General of India or any person authorised by him in this behalf.

(3) The Board shall submit a copy of the accounts and report to the State Government through the Chancellor along with the statement of the action taken by the University on the audit report and the State Government shall cause the same to be laid before both the Houses of the Legislature.

CHAPTER VIII

STATUTES AND REGULATIONS

Statutes.

35. Subject to the provisions of this Act the Statutes may provide for all or any of the following matters, namely:—

(1) constitution, powers and duties of the authorities;

(2) powers, functions, duties, manner of appointment and conditions of service of the officers other than the Chancellor;

(3) designation, manner of appointment, powers and duties of officers;

(4) classification, qualification and manner of appointment of teachers and other non-teaching staff;

(5) conferment and withdrawal of honorary degrees and academic distinctions;

(6) establishment, amalgamation, sub-division and abolition of Faculties;

(7) establishment of departments of teaching in the Faculties;

(8) procedure of appointment, emoluments and conditions of service, of the Vice-Chancellor and his powers;

(9) manner of appointment and selection of officers other than the Vice-Chancellor, and their powers and terms and conditions of service;

(10) establishment of pension, provident funds and insurance schemes for the benefit of officers, teachers and other employees of the University, and the rules, terms and conditions of such funds or schemes;

(11) procedure at meetings of the authorities including the quorum for the transaction of business by them;

(12) holding of convocations to confer degrees and diplomas;

(13) establishment and abolition of hostels maintained by the University;

(14) institution of fellowships, scholarships, studentships, bursaries, medals and prizes and the conditions of award thereof;

(15) allowances payable to members of the Board;

(16) entrance or admission of the students to the University and their enrolment and continuance as such and the conditions and procedure for dropping students from enrolment;

(17) fees which may be charged by the University;

(18) courses of study to be laid down for all degrees, diplomas and certificates of the University;

(19) conditions under which students shall be admitted to the degrees, diplomas or other courses and examination of the University and their eligibility for the award of degrees and diplomas;

(*20*) conditions for conferring of degrees and other academic distinctions;

(*21*) maintenance of discipline among the students of the University;

(*22*) special arrangements, if any, which may be made for residence, discipline and teaching of women students and presenting for them special courses of study;

(*23*) conditions of residence of students of the University and the levy of fees for residence in hostels maintained by the University;

(*24*) recognition and management of hostels not maintained by the University;

(*25*) conditions of service, remunerations and allowances, including travelling and daily allowances to be paid to officers, teachers and other persons employed under the University;

(*26*) conditions and mode of appointment and the duties of examining bodies and examiners;

(*27*) conduct of examinations;

(*28*) conditions of registration of graduates and maintenance of register thereof;

(*29*) management of colleges and other institutions founded or maintained by the University;

(*30*) constitution of a Selection Committee for appointment of teachers;

(*31*) duties of teachers of the University;

(*32*) date on or before which the annual report shall be submitted to the Board;

(*33*) mode of execution of contracts or agreements by or on behalf of the University; and

(*34*) all other matters which by this Act are to be or may be provided for by the Statutes.

Statutes how made.

36. (*1*) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided:

Provided that the Board shall not make any Statute or any amendment to a Statute affecting the status, powers or constitution of any existing authority until such authority has been given an opportunity of expressing an opinion on the proposal, and any opinion so expressed shall be in writing and shall be considered by the Board:

Provided further that no Statute shall be made by the Board affecting the discipline of students, and standards of instruction, education and examination except after consultation with the Academic Council.

(2) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the approval of the Chancellor who may assent thereto or withhold assent or remit the same to the Board for consideration.

(3) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Chancellor.

(4) All Statutes made under this Act shall be published in the Official Gazette.

Regulations how made.

37. (1) The authorities of the University may by notification in the Official Gazette, make Regulations consistent with this Act and the Statutes,—

(i) laying down the procedure to be observed at their meetings and the number of members required to form the quorum; and

(ii) providing for matters which by this Act or the Statutes have to be regulated by Regulations.

(2) Every such authority of the University shall make Regulations for giving notice to the members of such authority of the dates of the meetings and the business to be considered at meetings and for keeping of record of the proceedings of the meetings.

(3) The Academic Council may, subject to the provisions of the Statutes, make Regulations providing for course of studies, system of examinations, and degrees, certificates, diplomas of the University after receiving drafts of the same from the Board of Studies concerned.

(4) The Academic Council may not alter a draft received from the Board of Studies but may reject the draft or may return it to the Board of Studies for further consideration together with the suggestions of the Council, and the Academic Council shall be the final authority for approval of such proposals.

(5) The Board may direct the amendment in such manner as it may specify of any Regulation made under sub-section (2) by any authority of the University.

CHAPTER IX

MISCELLANEOUS

Transitory provisions.

38. (1) Notwithstanding anything to the contrary contained in this Act, the Bihar State Universities (Universities of Bihar, Bhagalpur and Ranchi) Act, 1960 or the Magadh University Act, 1961 or the Statutes or Ordinances or Regulations made under any of these enactments, any student who immediately before the commencement of this Act was studying in a college which has been or may hereafter be admitted to the privileges of the University for degree, diploma or certificate of the University of Bihar, Bhagalpur University, Ranchi University, or Magadh University shall, in accordance with the Regulations of the University be permitted,— Bihar Act XIV of 1960. Bihar Act IV of 1962.

(a) to complete his course in accordance with the curriculum of studies of the University concerned;

(*b*) to be examined by the University and if on the results of such examination he qualifies, be entitled to be conferred a corresponding degree, diploma or certificate of the University; and

(*c*) to appear at the examination within two years of the normal period required for completing the said course of studies.

(*2*) In the year of the establishment of the University, University examination of all courses in the Faculties of Agriculture and Animal Husbandry shall be conducted by the University of Bihar, Bhagalpur University, Ranchi University, or Magadh University, as the case may be, and in subsequent years, the examinations shall be conducted by the University.

Bihar Act XIV of 1960. Bihar Act IV of 1962.

39. (*1*) Notwithstanding anything contained in the Bihar State Universities (Universities of Bihar, Bhagalpur and Ranchi) Act, 1960 or the Magadh University Act, 1961 or the Statutes or Ordinances or Regulations made thereunder, Bihar Agricultural College, Sabour, Ranchi Agricultural College, Kanke, Tirhut College of Agriculture, Dholi, Bihar Veterinary College, Patna, and Ranchi Veterinary College, Kanke, shall as from such date as the State Government may, by notification in the Official Gazette, specify, be disaffiliated from respective Universities and shall be maintained by the University as constituent colleges. Transfer of certain colleges and institutions to the University.

(*2*) The control and management of the colleges specified in sub-section (*1*) shall as from the date specified under sub-section (*1*) stand transferred to the University and all properties and assets and liabilities and obligations of the State Government and in relation thereto shall stand transferred to and vest in, or devolve upon the University.

(*3*) The control and management of all research and educational institutions of the Departments of Agriculture and Animal Husbandry referred to in section 26 shall, as from the date specified under sub-section (*3*) of the said section, stand transferred to the University, and thereupon all the properties and assets and liabilities and obligations of the State Government in relation to such institutions shall stand transferred to and vest in, or devolve upon, the University:

Provided that this transfer shall be completed within one year from the commencement of this Act.

(*4*) Every person employed in any of the colleges specified in sub-section (*1*), or in any of the institutions referred to in sub-section (*3*) immediately before the date referred to in sub-section (*1*) or sub-section (*3*) as the case may be subject to such terms and conditions as may be prescribed, become employee of the University on such date.

40. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty: Removal of difficulties.

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

(*2*) Every order published under this section shall, as soon as may be after its publication, be laid before the State Legislature.

Delegation of powers.

41. The Board may by Statute delegate to any officer or authority of the University any of the powers conferred on it by this Act or by the Statutes to be exercised subject to such restrictions and conditions as may be prescribed.

Constitution of *ad hoc* committee.

42. Notwithstanding anything in this Act and until such time as the authorities are duly constituted, the Vice-Chancellor may, subject to the prior approval of the Chancellor or of the Board after it has been constituted, appoint committees temporarily to exercise, perform and discharge any of the powers, functions and duties of such authorities under this Act.

Disputes as to constitution of University Authorities and Bodies.

43. If any question arises as to whether any person has been duly elected or appointed or is entitled to be a member of any authority or other body of the University, the matter shall be referred to the Chancellor whose decision thereon shall be final:

Provided that before taking any such decision the Chancellor shall give the person or persons affected thereby reasonable opportunity of being heard.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

Reasons for the enactment

The Education Commission (1964—66) had recommended the establishment of at least one Agricultural University in each State. At present there is no Agricultural University in the State of Bihar. The State Government of Bihar has accordingly decided to establish an Agricultural University in that State. Necessary legislation for that purpose has been prepared in consultation with the State Government of Bihar and the Indian Council of Agricultural Research and is proposed to be enacted as a President's Act.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1969 (32 of 1969) has been consulted before enactment of this measure as a President's Act.

B. R. PATEL,
Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and
Co-operation.

THE BIHAR SOIL AND WATER CONSERVATION AND LAND DEVELOPMENT ACT, 1970

No. 12 OF 1970

Enacted by the President in the Twenty-first Year of the Republic of India.

An Act to provide for the preparation and execution of soil and water conservation plan, including plan for land development, alleviation of damage by flood and drought, control of grazing for prevention of soil erosion, reclamation of waste land and protection of reservoirs against sedimentation in the State of Bihar.

32 of 1969. In exercise of the powers conferred by section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1969, the President is pleased to enact as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Bihar Soil and Water Conservation and Land Development Act, 1970.

(*2*) It extends to the whole of the State of Bihar.

(*3*) It shall come into force on such date and in such areas, as the State Government may, by notification in the Official Gazette, appoint and it may appoint different dates for different areas and for different provisions.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Bihar Soil and Water Conservation and Land Development Board constituted under section 5;

(*b*) "Collector" means the Collector or the Deputy Commissioner of a district and includes any officer appointed by the State Government to exercise the powers and discharge the functions of a Collector under all or any of the provisions of this Act;

(*c*) "District Committee" means the District Soil and Water Conservation and Land Development Committee constituted under section 7;

(*d*) "District Development Committee" means a District Development Committee constituted under the executive orders of the State Government for a district for which no Zila Parishad has been constituted;

(*e*) "District Soil Conservation Officer" means the District Soil Conservation and Land Development Officer for the district and includes any officer appointed by the State Government to exercise the powers and discharge the functions of a District Soil Conservation Officer under this Act:

Provided that one person may be appointed to be the District Soil Conservation Officer for more than one district or more than one person may be appointed to be District Soil Conservation Officers in the same district;

(*f*) "owner" means any person or persons holding land severally, or jointly or in common as a raiyat or an occupancy under-raiyat or a mortgagee of such land with possession;

(*g*) "Panchayat Samiti" means a Panchayat Samiti constituted under the Bihar Panchayat Samitis and Zila Parishads Act, 1961, and includes a Block Development Committee constituted under the executive orders of the State Government for an area for which no Panchayat Samiti has been constituted; Bihar Act VI of 1962.

(*h*) "plan" means a plan for the purpose of soil and water conservation and land development prepared under this Act;

(*i*) "prescribed" means prescribed by rules made under this Act;

(*j*) "Soil Conservation Officer" means the Soil Conservation Officer of the area and includes any officer appointed by the State Government to exercise the powers and discharge the functions of a Soil Conservation Officer under this Act;

(*k*) "Sub-divisional Officer" means the officer in charge of the sub-division of a district;

(*l*) "waste land" means any land which for a period of not less than five continuous years has been lying waste on account of soil erosion, water logging, salinity, accumulation of sand, growth of weeds or any other cause or which for the period aforesaid has been lying uncultivated;

(*m*) "work" means any work of public utility constructed, erected or carried out or to be carried out under a plan and includes a pasture or forest provided for or raised under a plan;

(*n*) "Zila Parishad" means a Zila Parishad constituted under the Bihar Panchayat Samitis and Zila Parishads Act, 1961 and includes a District Development Committee; Bihar Act VI of 1962.

(*o*) the expressions "cattle", "forest produce", "timber" and "trees" have the meanings respectively assigned to them in the Indian Forest Act, 1927. 16 of 1927

CHAPTER II

NOTIFICATION OF AREAS AND CONTROL OVER THEM

Notification of areas.

3. Whenever the State Government considers that in any area it is expedient to provide for the conservation of soil and water or for the prevention or mitigation of erosion of lands, it may, by notification in the Official Gazette, declare the area to be a notified area for the purposes of this Act.

Power to regulate, restrict or prohibit certain matters within notified areas.

4. In respect of any notified area or part thereof, the State Government may, by order published in the Official Gazette, restrict or prohibit—

(*a*) the clearing or breaking up of land for cultivation or the cultivation of land;

(*b*) the quarrying of stone or burning of lime, or manufacturing and burning of bricks;

(*c*) the cutting of trees and timber, or the collection or removal or subjection to any manufacturing process of any forest produce for any purpose;

(*d*) the setting on fire of trees, timber or forest produce;

(*e*) the admission, herding, pasturing and retention of cattle including goats, sheep and pigs;

(*f*) the erection of buildings in such area; and

(*g*) any other act which hampers the preparation or execution of the plan.

CHAPTER III

CONSTITUTION OF THE BOARD AND THE DISTRICT COMMITTEES

Constitution of the Board.

5. (*1*) The State Government may, for the purpose of carrying out the provisions of this Act, by notification in the Official Gazette, constitute, for the State of Bihar, a Board called the Bihar Soil and Water Conservation and Land Development Board.

(*2*) The Board shall consist of the following members:—

(*a*) the Minister in charge of Agriculture, and if there is no Minister in charge of Agriculture, any person nominated by the Governor, who shall be the Chairman;

Bihar A VI of 1962.

(*b*) the Chairman of the State Panchayati Raj Board established under the Bihar Panchayat Samitis and Zila Parishads Act, 1961, if any;

(*c*) the Development Commissioner;

(*d*) the Agriculture Production Commissioner;

(*e*) the Director of Agriculture;

(*f*) the Director of Soil Conservation;

(*g*) the Chief Conservator of Forests;

(*h*) the Chief Engineer (Irrigation);

(*i*) five members of the Bihar Legislative Assembly and two members of the Bihar Legislative Council to be nominated by the State Government.

(*3*) The Director of Soil Conservation shall be the Secretary of the Board.

(*4*) The Board may invite any other person or persons to attend meetings of the Board.

(*5*) The term of office of the members referred to in clause (*i*) of sub-section (*2*) shall be three years or such shorter period as the State Government may fix:

Provided that if a member nominated under clause (*i*) of sub-section (*2*) is unable by reason of his death, resignation or otherwise to complete his full term of office, the vacancies so caused shall be filled by fresh nomination and the person nominated to fill a casual vacancy shall hold office only for the remainder of the term for which the member, whose place he takes, was nominated.

(*6*) If there is a difference of opinion amongst the members of the Board regarding any matter under this Act, the decision of the majority of the members present shall prevail:

Provided that when their opinion is equally divided, the Chairman shall exercise a casting vote.

(*7*) A non-official member may, at any time, by notice in writing to the Chairman, resign his office.

(*8*) All communications and orders of the Board shall be issued by the Secretary or by such officers subordinate to him as may be authorised by the Board in this behalf.

(*9*) No Act or proceeding of the Board shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Board.

Functions of the Board.

6. The functions of the Board shall be:—

(*a*) to make recommendations to State Government regarding policies for soil and water conservation measures in the State;

(*b*) to make recommendations to the State Government as to the areas for which soil and water conservation and land development plans may be prepared;

(*c*) to consider and approve draft plans to be placed before the Board under the rules made by the State Government under section 28;

(*d*) to perform such other functions as may be specified in this Act or in the rules made thereunder.

Constitution of District Committee.

7. (*1*) For every district in which this Act shall be in force the State Government shall by a notification in the Official Gazette, constitute a committee called the District Soil and Water Conservation and Land Development Committee consisting of the following members:—

(*i*) the Collector, who shall be the Chairman;

(*ii*) the Adhyaksha, Zila Parishad;

(*iii*) the District Soil Conservation Officer;

(*iv*) the District Agricultural Officer;

(*v*) the Divisional Forest Officer or Officers;

(*vi*) the Sub-divisional Officer of the Sub-division to which the scheme relates;

(*vii*) four members of the Zila Parishad to be nominated by the Adhyaksha from among the members of the Standing Committee constituted under clause (*ii*) of sub-section (*1*) of section 42 of the Bihar Panchayat Samitis and Zila Parishads Act, 1961 or four non-official members of the District Development Committee to be nominated by the Committee where no Zila Parishad has been constituted.

Bihar Act VI of 1962.

(*2*) The Committee may invite any person or persons to attend meetings of the Committee.

(*3*) In the absence of the Collector, the Committee shall elect a Chairman for the meeting.

(*4*) The District Soil Conservation Officer shall be the *ex-officio* Secretary of the District Committee.

(*5*) If there is a difference of opinion amongst the members of the District Committee, the decision of the majority of the members present shall prevail:

Provided that when their opinion is equally divided, the Chairman shall exercise a casting vote.

(*6*)(*a*) A member referred to in clause (*vii*) of sub-section (*1*) may, at any time, by notice in writing to the Collector resign his office.

(*b*) A casual vacancy caused by the resignation of a member under clause (*a*) or otherwise, shall be filled by fresh nomination.

(7) All communications and orders of the District Committee shall be issued by the Secretary or by such officer subordinate to him as may be authorised by the District Committee in this behalf.

(8) No act or proceedings of the Committee shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Committee.

Functions of the District Committee.

8. The functions of the District Committee shall be—

(*a*) to make recommendations to the Board as to the areas in the district for which plans may be prepared;

(*b*) to consider and recommend plans for areas in the district to be placed before the Committee in accordance with the rules framed under section 28 and subject to such conditions as may be prescribed, approve the same;

(*c*) to carry out the directions issued by the State Government or the Board from time to time with regard to plans;

(*d*) to perform such other functions pertaining to soil and water conservation and land development as may be specified in this Act or in the rules made thereunder.

CHAPTER IV

PREPARATION OF SOIL AND WATER CONSERVATION AND LAND DEVELOPMENT PLANS

Matters for which the plan may provide.

9. A plan may provide for all or any of the following matters, namely:—

(*i*) prevention or mitigation of erosion of soil;

(*ii*) preservation and improvement of soil;

(*iii*) reclamation of waste, saline or water logged land;

(*iv*) improvement in the methods of cultivation;

(*v*) construction of earth and masonry works in fields, gullies and ravines;

(*vi*) training of stream and water courses;

(*vii*) land levelling, preparation of channels for irrigation and drainage and application of other water management practices in the irrigation commands;

(*viii*) cultivation of waste or fallow land;

(*ix*) prohibition or control of grazing or reservation of land for pasture and deep cultivation by tractors in areas subject to erosion;

(*x*) planting and preservation of trees, shrubs and grasses for afforesting uncultivable land or providing shelter belts against wind erosion or for any other purpose;

(*xi*) regulation or prohibition of the setting on fire of vegetation;

(*xii*) improvement of water supply;

(*xiii*) retirement of any land from cultivation if its continuance under agriculture is prejudicial to that land or some other land;

(*xiv*) prevention from breaking up marginal and sub-marginal lands for purposes of cultivation;

(*xv*) consolidation of holdings of cultivators of an area for the better use of land;

(*xvi*) any other matter which may be prescribed.

Preparation of plans.

10. (*1*) A draft plan shall be prepared by the Soil Conservation Officer of the area containing the following particulars, namely:—

(*a*) the object of the plan;

(*b*) the boundaries and approximate area of the land to be included in the plan;

(*c*) the persons, including the Government, who will be affected by the plan;

(*d*) the work or kind of work to be carried out under the plan and the cost thereof;

(*e*) the agency or the agencies through which the work shall be carried out;

(*f*) the total amount to be recovered from owners;

(*g*) the general rate per acre per annum at which such amount is to be recovered from owners;

(*h*) the period within which the amount is to be recovered;

(*i*) the work which, in his opinion, shall be maintained and repaired individually or jointly and the name of every such person; and

(*j*) such other particulars as may be prescribed.

(2) The draft plan so prepared shall be placed before the District Committee which may approve the plan with or without modification or may reject it and cause to be prepared another draft plan, provided that the District Committee shall not approve or recommend any plan which has not received the consent of at least 50 per cent. of the owners of the land included in the plan.

Publication of draft plan.

11. (*1*) Copies of every draft plan prepared under sub-section (*1*) of section 10 together with the connected maps and plans, if any, shall be published in the draft stage by District Soil Conservation Officer and shall be made available by him for inspection by the public free of

charge, in the offices of Gram Panchayats, Panchayat Samitis and Sub-divisional Officers within whose jurisdiction the lands proposed to be included in the draft plan are situated and in his own office;

(2) A general notice in the prescribed form shall be published in the Official Gazette and in such newspapers, if any, circulating in the locality as the District Soil Conservation Officer may direct—

(*a*) intimating that the draft plan has been prepared, that copies thereof have been kept and may be inspected by the public free of charge at the places aforesaid and that copies of the draft plan may be obtained on payment of the cost thereof which shall be specified in the notice, from the District Soil Conservation Officer or the Sub-Divisional Officer or Block Development Officer and also from any other officer specified in the notice; and

(*b*) requiring any person affected by the draft plan who wishes to object to it or to any part thereof, to submit his objections in writing to the District Soil Conservation Officer or to appear before him with his objections within thirty days of the publication of the notice.

(3) A special notice shall be sent to the Panchayat Samitis concerned requiring them to submit such suggestions or objections as they may like to make within thirty days of the receipt of the special notice.

(4) The general notice shall also be published by beat of drums in the village or villages to which the draft plan relates.

District Soil Conservation Officer to consider objections and submit report to the District Committee.

12. The District Soil Conservation Officer shall inquire into the objections received or recorded by him and submit them to the District Committee together with his report thereon and his recommendations, if any, for modification of the draft plan.

Sanction of draft Plans.

13. (*1*) After considering the objections and the report and the recommendations of the District Soil Conservation Officer and any further report which the District Committee may require from him, the District Committee may accord its approval or, as the case may be, forward the draft plan to the Board with its recommendations.

(2) The Board may approve the draft plan placed before it under the rules with or without modifications or may reject it and direct that in lieu thereof a fresh draft plan be prepared and submitted for its approval.

(3) The draft plan as approved by the District Committee or the Board, as the case may be, shall be submitted by the Board to the State Government for sanction and thereafter the State Government may sanction the draft plan with or without modifications or may reject it and direct that a fresh plan be prepared and submitted for its sanction.

(4) The plan as sanctioned by the State Government, shall be published in the prescribed manner and copies thereof shall be made available

in the offices of the Gram Panchayat, the Panchayat Samitis, the Sub-divisional Officer and the District Soil Conservation Officer within whose jurisdiction the lands included in the scheme are situated.

(5) Publication of notices in the prescribed manner shall be treated as final notice for fulfilment of the provisions of this Act.

(6) On and from the date of the publication of the plan under sub-section (4) the plan shall come into force and shall have effect.

(7) The State Government may, for the purpose of carrying out the objects of the plan, make regulations requiring any person or persons or the public generally to take certain actions or to refrain from doing certain acts in respect of any matters supplementary and incidental to the plan.

Subsequent changes and corrections of errors in the plan.

14. Notwithstanding anything contained in section 13—

(*i*) the Director of Soil Conservation may make such changes in the plan as are at any stage necessitated by the changes that may occur in the land due to any unforeseen circumstances :

Provided that no such change shall be made to the prejudice of any owner without allowing him an opportunity of being heard :

Provided further that such changes shall be placed before the Board at its next meeting for its approval;

(*ii*) the District Soil Conservation Officer may, if satisfied that a clerical or arithmetical error exists in the plan, correct the same in the prescribed manner, either on his own motion or on the application of an interested person :

Provided that such changes shall be placed before the District Committee at its next meeting for approval.

CHAPTER V

EXECUTION OF PLAN AND MAINTENANCE, REPAIRS AND USE OF WORK CARRIED OUT UNDER THIS PLAN

Directions to execute work.

15. (*1*) The District Soil Conservation Officer may by notice, require any owner to carry out at his own cost any work which under the plan is to be carried out by the owner at his own cost, in the manner and within the period mentioned in the notice.

(2) Where an owner intimates in writing to the District Soil Conservation Officer that he is unable to carry out the work within the time aforesaid or if the work is not carried out to the satisfaction of the District Soil Conservation Officer by the date fixed in that behalf or within such further time as he may allow, the District Soil Conservation Officer shall get the work carried out and, subject to such conditions as may be

prescribed, in this behalf, recover the expenses incurred from the owner as arrears of land revenue :

Provided that the District Soil Conservation Officer shall get the work carried out in such a case after serving notice on the owner, and giving him an opportunity to be heard.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where the Collector is of the view that it will be in the interests of general public to have a work carried out by the District Soil Conservation Officer, he may direct the District Soil Conservation Officer to carry out the work and cost of such work shall, subject to such provisions as may be prescribed in this behalf, be recovered by the District Soil Conservation Officer as arrears of land revenue from the owner or from the owners in such proportion, as the Collector may fix after taking into consideration the benefits or likely benefits to the land of each owner from that work and other relevant matters.

(4) If the costs are not paid by the owner within the prescribed time, such owner shall also be liable to pay such interest thereon as may be prescribed.

Liability of persons whose lands are not included.

16. (1) If in consequence of any work carried out under the plan, any person other than the owner of the land on which the work is done, is likely to be benefited, such person shall pay such amount and within such time as the Collector may determine, to the owner of the land, if the work is carried out by him or to the State Government, if the work is carried out by the District Soil Conservation Officer:

Provided that before any person is required to pay any such contribution, he shall be given a resonable opportunity for making his representation, if any, in regard to the matter :

Provided further that any such contribution may be waived by the State Government in whole or in part in respect of any work carried out in land owned by it.

(2) If default is made in the payment of such contribution within the time determined in that behalf in pursuance of sub-section (1), the Collector or any Officer authorised by him in this behalf shall recover it from the defaulter and pay the same to the owner of the land or to the State Government, as the case may be.

Preparation of statements.

17. (1) The District Soil Conservation Officer shall, on completion of the work, prepare a statement for any specified area giving the following particulars:—

(*i*) the name of owner or owners;

(*ii*) the work done;

(*iii*) the cost thereof;

(*iv*) the total amount to be recovered from the owners;

(*v*) the general rate per acre per annum at which such amount is to be recovered from owners;

(*vi*) the period within which the amount is to be recovered;

(*vii*) the work which, in his opinion, shall be maintained and repaired individually or jointly and the name of every such person;

(*viii*) in the case of any survey number or sub-division of survey number for which the owner is not liable to repair or maintain works therein, or if the cost is to be recovered from an owner at a rate other than the general rate, a list of such survey numbers or sub-divisions and the rate at which the cost is to be recovered from the owners of such survey numbers or sub-divisions;

(*ix*) a map showing the work carried out in the village;

(*x*) such other matters as may be prescribed.

(*2*) When a statement is prepared under this section, any rights and liabilities shown therein shall be entered in a record to be prepared for the purpose and kept in such manner as may be prescribed in the office of District Soil Conservation Officer and the Panchayat Samiti as a permanent record and shall be open to public inspection and copies whereof shall be provided on payment of prescribed fees.

Obligation of persons to maintain and repair works.

18. (*1*) Every person shown in the statement prepared under section 17 as liable to maintain or repair any work, shall, to the satisfaction of the District Soil Conservation Officer and within such time as the District Soil Conservation Officer may fix, maintain or repair the work on his own land and on any other land in respect of which he is shown as liable in the said statement.

(*2*) If any person fails to maintain or repair the work within the time fixed by the District Soil Conservation Officer under sub-section (*1*), the District Soil Conservation Officer shall get the work maintained or repaired by the Panchayat Samiti or through any other agency if the Panchayat Samiti fails to execute the work and recover the cost thereof from such person.

(*3*) Any dispute as to the liability or the amount of cost shall be decided by the Collector.

CHAPTER VI

PENALTY

Penalty.

19. Any person who without proper authority damages or obstructs any work under a plan or contravenes any of the provisions of this Act or any rule or order made thereunder, shall, on conviction, be liable to imprisonment for a term which may extend to six months or to a fine which may extend to one thousand rupees or to both and where the offence is a continuing one to further fine which shall not be less than rupees twenty-five for every day during which the offence continues after the date of the first conviction.

CHAPTER VII

MISCELLANEOUS

Sums payable under this Act recoverable as public demand.

20. Any sum payable to the State Government under this Act shall be recoverable as a public demand under the Bihar and Orissa Public Demands Recovery Act, 1914. Bihar and Orissa Act IV of 1914.

Procedure and powers of inquiry.

21. (*1*) Any officer or authority empowered to make an inquiry under this Act shall, where no specific provision has been made therefor, make the inquiry in the manner provided in the law relating to revenue inquiries and all the provisions contained in any such law shall, as far as may be, apply to an inquiry under this Act.

(*2*) Any officer or authority referred to in sub-section (*1*) shall have the same power of summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in Revenue Officers under the law referred to in that sub-section.

Power to enter upon survey and mark out land.

22. (*1*) Any person authorised generally or specially in this behalf by the State Government or the Collector may alongwith his staff and workmen for the purpose of exercising any power or performing any function or duty conferred or imposed or entrusted by or under this Act and after giving such notice as may be prescribed, to the owner, occupier or any person interested in any land enter upon, survey and mark out such land and do all acts necessary for such purpose.

(*2*) In particular he may—

(*a*) take levels;

(*b*) dig or bore into the sub-soil;

(*c*) place, erect or make on any land any peg or mark including trenches or boundaries which he deems to be necessary;

(*d*) do all other acts necessary to ascertain whether the land is suited for such purpose;

(*e*) where otherwise the survey cannot be completed, cut down and clear away any part of the standing crop, fence or jungle but only to the extent necessary.

(*3*) Payment in respect of any damage caused to the property or rights of any person in carrying out any operations under the provisions of this Act shall be made to the person—

(*a*) where an agreement has been entered into with the person concerned, in accordance with the agreement; and

(*b*) in other cases in accordance with section 5 of the Land Acquisition Act, 1894. 1 of 1894.

Appeal.

23. Any person aggrieved by an order passed under section 15, section 16 or section 18 may appeal within such period and in such manner, as may be prescribed to—

(*a*) the Commissioner of the Division, if the order has been passed by the Collector or the Deputy Commissioner of the district;

(*b*) the Collector or the Deputy Commissioner of the District, if the order has been passed by any officer other than the Collector or the Deputy Commissioner of the district.

Person authorised to execute work to be deemed as public servant.

24. Every person who is appointed or authorised to exercise any power or to perform any function or duty conferred or imposed by or under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and every person who is required to submit any opinion or particular shall be deemed to be legally bound to do so within the meaning of the said Code.

45 of 1860.

Registration of documents or maps in connection with scheme not required.

25. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document or map prepared, made or sanctioned in pursuance of this Act in connection with any plan which has come into force.

16 of 1908.

(*2*) All such documents and maps made shall, for the purposes of sections 48 and 49 of the said Act, be deemed to be registered in accordance with the provisions of that Act.

(*3*) All documents and maps relating to such schemes shall be accessible to the public in the manner prescribed.

Delegations of powers.

26. The State Government may delegate to any officer or authority subordinate to it any of the powers, functions or duties required to be discharged under this Act.

Provisions of this Act to prevail.

27. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Powers to make rules.

28. (*1*) The State Government may, by notification in the Official Gazette, make rules for the purposes of carrying into effect the provisions of this Act.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the procedure for and the manner of declaring a person to be an owner;

(*b*) matters relating to the establishment and constitution of the Board and the District Committee;

(*c*) the procedure (including quorum) for the conduct of business by the Board and the District Committee;

(*d*) the categories of plans to be placed before the District Committee and the Board;

(*e*) functions of the District Soil Conservation Officer and allocation of business to the District Soil Conservation Officers in the same district;

(*f*) the particulars to be set out in the draft plan;

(*g*) the time within which the costs of work carried out by the District Soil Conservation Officer shall be paid by the owner and the interest on such costs;

(*h*) the form in which and the intervals at which report of progress in work shall be submitted by a District Soil Conservation Officer;

(*i*) the form of statement of rights and liabilities of the owners;

(*j*) the statements, returns, registers and other records required to be maintained by or under this Act;

(*k*) the form and manner of service or publication of notices under this Act or the rules made thereunder;

(*l*) filing and disposal of objections and appeals under this Act and the procedure to be followed in regard thereto;

(*m*) the duties of any officer or authority having jurisdiction under this Act and the procedure to be followed by such officer or authority; and

(*n*) other matters which are to be or may be prescribed.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session, for a total period of fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Official

Gazette, subject to such modifications or annulments as the two Houses of the Legislature may agree to make; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

Protection of action taken under the Act.

29. (*1*) No suit, prosecution or other proceeding shall lie against any person for anything done or intended to be done in good faith in pursuance of this Act or any rule made thereunder.

(*2*) Save as otherwise expressly provided by or under this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused by anything done or intended to be done in good faith in pursuance of this Act or any rule made thereunder.

V. V. GIRI,

President.

N. D. P. NAMBOODIRIPAD,

Joint Secy. to the Govt. of India.

Reasons for the enactment

At present the Soil Conservation works are being undertaken on the cultivator's field through persuasion under an extension programme. Quite often many obstacles come in the way of execution of these works. The desire to have quick return from the land in disregard of the adverse effects on sustained production, often leads the farmers to adopt faulty land-use practices resulting in accelerated soil erosion and impoverishment of soil fertility.

2. The object of the proposed Legislation is to ensure execution of schemes of Soil and Water Conservation in a scientific manner expeditiously. Land and Water Management play an important role in the development of agriculture, protection against drought and floods, domestic and industrial water supply, hydro-electric projects, etc. In order to ensure maximum production from the land, it is essential that the process of soil erosion, which is continuously depleting land fertility particularly in the hilly and sub-hilly regions of the State should be checked. A number of River Valley Projects have been executed in the State and more are likely to be executed in future. In addition, a number of major and minor Irrigation Projects are also being taken up. Soil erosion in the catchments of these projects results in deposition of silt, thereby reducing the effective life of the projects. The Bill provides for the preparation of schemes of soil conservation measures and their maintenance and repairs after their execution.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1969 (32 of 1969), has been consulted before the enactment of this measure as a President's Act.

B. R. PATEL,
Secy. to the Govt. of India.
Ministry of Food, Agriculture,
Community Development and Co-operation,
(Department of Agriculture).

THE BIHAR CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1970

No. 13 of 1970

Enacted by the President in the Twenty-first Year of the Republic of India.

An Act further to amend the Bihar and Orissa Co-operative Societies Act, 1935.

In exercise of the powers conferred by section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1969, the President is pleased to enact as follows:— 32 of 1969.

Short title, extent and commencement.

1. (1) This Act may be called the Bihar Co-operative Societies (Amendment) Act, 1970.

(2) It extends to the whole of the State of Bihar.

(3) It shall be deemed to have come into force on the 26th day of June, 1968.

2. In the Bihar and Orissa Co-operative Societies Act, 1935, after Chapter VI, a new Chapter VI-A shall be inserted as follows:— Insertion of a new Chapter in Bihar and Orissa Act VI of 1935.

"CHAPTER VI-A

LAND DEVELOPMENT BANKS

44-A. In this Chapter, unless the context otherwise requires,— Definitions.

(*a*) 'Board' means the managing committee of the State Co-operative Land Development Bank;

(*b*) 'Land Development Bank' includes the State Co-operative Land Development Bank and the Primary Co-operative Land Development Bank;

(*c*) 'prescribed' means prescribed by rules made under this Chapter;

(*d*) 'Primary Co-operative Land Development Bank' means a registered society of that name;

(*e*) 'State Co-operative Land Development Bank' means a registered society of that name, registered under section 11, and includes the Bihar State Co-operative Land Mortgage Bank Ltd. registered as such under section 11;

(*f*) 'Trustee' means the Trustee referred to in section 44-C.

44-B. The provisions of this Chapter shall apply to Land Development Banks advancing loans for all or any of the purposes herein enumerated, that is to say— Application of Chapter to Land Development Banks.

(*i*) land improvement and productive purposes;

(*ii*) the redemption of mortgages on lands;

(*iii*) the redemption of mortgages on other valuable immovable property subject to such conditions as may be prescribed;

(*iv*) the liquidation of debts of agriculturists subject to such restrictions as may be prescribed;

(*v*) the purchase or acquisition of title to agricultural lands by tenants; or

(*vi*) the erection, rebuilding or repairing of houses for agricultural purposes.

Explanation.—'Land improvement and productive purposes' means any work, construction or activity which adds to the productivity of the land, and, in particular, includes the following, that is to say—

(*a*) construction and repair of wells (including tube-wells), tanks and other works for the storage, supply or distribution of

water for the purpose of agriculture or for the use of men and cattle employed in agriculture;

(*b*) renewal or reconstruction of any of the foregoing works;

(*c*) preparation of land for irrigation;

(*d*) drainage, reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is cultivable:

(*e*) bunding and similar improvements;

(*f*) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes;

(*g*) horticulture;

(*h*) purchase of oil-engines, pumping sets and electrical motors for any of the purposes mentioned herein;

(*i*) purchase of tractors or other agricultural machinery;

(*j*) increase of the productive capacity of land by addition to it of special variety of soil;

(*k*) construction of permanent farm-house, cattle-sheds and sheds for processing of agricultural produce at any stage;

(*l*) purchase of machinery for crushing sugarcane, manufacturing *Gur* or *Khandsari* sugar or sugar;

(*m*) purchase of land for consolidation of holdings;

(*n*) digging canals; and

(*o*) such other purposes as the State Government may, from time to time, by notification in the Official Gazette, declare to be improvement or productive purpose for the purposes of this Chapter.

Appointment of Trustee and his powers and functions.

44-C. (*1*) The Registrar, or where the State Government appoint any other person in this behalf, such person shall be the Trustee for the purpose of securing the fulfilment of the obligations of the State Co-operative Land Development Bank to the holders of debentures issued by the Board.

(*2*) The powers and functions of the Trustee shall be governed by the provisions of this Chapter and by the instrument of trust executed between the State Co-operative Land Development Bank and the Trustee, as modified from time to time by mutual agreement between the Board and the Trustee.

Trustee to be a corporation sole.

44-D. The Trustee shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in his corporate name may sue and be sued.

Issue of debentures by the Board.

44-E. (*1*) With the previous sanction of the Trustee, and subject to such terms and conditions as he may impose, the Board may, from time to time, issue debentures of such denominations for such periods as it may deem expedient on the security of the mortgages held, or mortgages partly held and partly to be acquired and either transferred or deemed to have been transferred, under the provisions of section 44-J, to the State Co-operative Land Development Bank and other properties of such a Bank.

(*2*) Such debentures may contain a term fixing a period not exceeding thirty years, from the date of issue, during which they shall be irredeemable, or reserving to the Board the right to call in at any time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holders concerned not less than three months' notice in writing.

(*3*) The total amount due on the debentures issued by the Board including those issued before the commencement of the Bihar Co-operative Societies (Amendment) Act, 1970 and outstanding at any time shall not exceed the aggregate of—

(*a*) the amounts due on the mortgage;

(*b*) the value of the properties and other assets transferred or deemed to have been transferred under section 44-J to the State Co-operative Land Development Bank and subsisting at such time; and

(*c*) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time.

(*4*) Debentures in excess of the limit specified in sub-section (*3*) may be issued with permission of the Trustee.

Vesting of mortgaged property in the Trustee and floating charge of debenture-holders.

44-F. Upon the issue of debentures under the provisions of section 44-E, the mortgages, properties and other assets, referred to in sub-section (*3*) of that section, held by the State Co-operative Land Development Bank shall vest in the Trustee, and the holders of debentures shall have floating charge on all such mortgages, properties and assets and on the amount paid under such mortgages and remaining in the hands of the State Co-operative Land Development Bank or of the Trustee.

Guarantee by State Government of principal and interest on debentures.

44-G. (*1*) The State Government may, if in their opinion it is necessary in the public interest so to do, and subject to such terms and conditions as the State Government may think fit to impose, guarantee the principal of and interest on the debentures issued by the Board, including debentures, if any, issued prior to the com-

mencement of the Bihar Co-operative Societies (Amendment) Act, 1970 subject to such maximum amount as may be fixed by the State Government.

(2) The State Government may, subject to the provisions of any Act in that regard, increase the maximum amount of any guarantee given under sub-section (1).

Priority of mortgage over claims.

44-H. (1) A mortgage executed in favour of a Land Development Bank shall have priority over any claim of the State Government arising from a loan, under the Land Improvement Loans Act, 1883 or the Agriculturists' Loans Act, 1884 or any other law for the time being in force, granted subsequent to the execution of the mortgage. 19 of 1883. 12 of 1884.

(2) A mortgage executed in favour of a Land Development Bank shall have priority also over the claim of any other person arising out of a mortgage of any description executed or any other charge created, after the issue of a public notice under section 44-O in respect of the property of the loanee specified in the said public notice.

Right of Land Development Bank to purchase mortgaged property.

44-I. Notwithstanding the provisions contained in the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 but subject to any tenancy law for the time being in force, it shall be lawful for Land Development Bank to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee: Bihar Act XII of 1962.

Provided that a purchaser of such mortgaged property from a Land Development Bank shall purchase it subject to the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. Bihar Act XII of 1962.

Mortgages executed in favour of Land Development Bank to stand vested in Trustee.

44-J. The mortgages executed in favour of and all other assets transferred to the State Co-operative Land Development Bank by its members, either before or after the commencement of the Bihar Co-operative Societies (Amendment) Act, 1970 shall vest in the Trustee with effect from the date of such execution or transfer and likewise mortgages or transfer of assets in favour of a Primary Co-operative Land Development Bank by its members shall be deemed to have been transferred to the State Co-operative Land Development Bank and shall vest in the Trustee.

Power of Primary Land Development Bank to receive moneys and grant discharge.

44-K. Notwithstanding that a mortgage executed in favour of a Primary Land Development Bank has been transferred or is deemed under the provisions of section 44-J, to have been transferred to the State Co-operative Land Development Bank—

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the

Primary Land Development Bank and such payment shall be as valid as if the mortgages had not been so transferred; and

(*b*) the Primary Land Development Bank shall, in the absence of any specific direction to the contrary, issued by the Board or Trustee and communicated to the Primary Land Development Bank, be entitled to sue on the mortgage or take any other proceeding, including a proceeding under this Act, for the recovery of the moneys due under the mortgage.

Registration of mortgage in favour of Land Development Bank.

44-L. Notwithstanding anything contained in the Indian Registration Act, 1908 it shall not be necessary to register mortgages executed in favour of a Land Development Bank, provided that the Land Development Bank concerned sends within such time and in such manner as may be prescribed a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is situate, and such Registering Officer shall file a copy or copies as the case may be in his Book No. I prescribed under section 51 of the Indian Registration Act, 1908.

16 of 1908.

Power of Land Development Banks to pay prior debts of mortgagors and secure consequential reliefs.

44-M. (*1*) Where a mortgage is executed in favour of a Land Development Bank for payment of prior debts of the mortgagor, such Bank may, notwithstanding anything contained in the Transfer of Property Act, 1882 by such notice in writing as may be prescribed, require any person to whom any such debt is due to receive payment of such debt or part thereof from the Bank at its registered office or any of its branch offices within such period as may be specified in the notice.

4 of 1882.

(*2*) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due may refer the dispute to Registerar for decision in accordance with provisions of section 48:

Provided further that the person to whom such debt is due shall, pending the decision in the dispute, be bound to receive payment of the amount offered by the Land Development Bank towards the debt but such receipts shall not prejudice the right, if any, of such person to recover the balance claimed by him.

(*3*) Where a notice has been served under sub-section (*1*) on any person for receiving payment of his dues, such person shall be bound to deliver possession, to the mortgagor, of any property held

in usufructuary mortgage for the debts due on or before the date specified in the aforesaid notice:

Provided that he may deliver possession of any agricultural land after harvesting of the standing crop, if any, and in such an event he shall be entitled to receive the amount due to him from the Land Development Bank on the date of delivery of possession given to the mortgagor.

(4) Where a person holding any property in usufructuary mortgage refuses delivery of possession in the manner indicated in sub-section (3), the Collector shall, on an application of the Land Development Bank made in this behalf, after making a summary enquiry eject the mortgagee and restore the mortgaged land to the mortgagor and the mortgage shall thereupon be deemed to have terminated.

(5) The provisions of this section shall be subject to any tenancy laws for the time being in force.

Powers of Land Development Banks to advance loans and to hold lands.

44-N. Subject to the provisions of this Act and in accordance with the rules made thereunder, it shall be competent for a Land Development Bank to advance loans for the purposes referred to in section 44-B and to hold lands the possession of which is transferred to it under the provisions of this Chapter.

Public notice for entertaining objection.

44-O (1) When an application for a loan is made for any of the purposes mentioned in section 44-B, a public notice shall be given, of the application in such manner and form as may be prescribed, calling upon all persons interested to make their objections to the loan, if any, before the date specified therein. The person by whom such public notice shall be given and the manner in which the objection shall be disposed of by him, shall be such as may be prescribed. Copies of such public notice shall also be sent separately to such persons and within such time as may be prescribed.

(2) The person empowered to give notice under sub-section (1) shall consider every objection made under that sub-section and pass an order in writing either upholding or overruling it. When the objection is overruled, he shall recommend the application to the Land Development Bank for its consideration:

Provided that when the question raised by an objection is, in the opinion of such person, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone the consideration of the application until the question has been so decided.

(3) A notice under sub-section (1), published in the manner prescribed, shall for the purpose of this Act, be deemed to be proper

notice to all persons having or claiming interest in the land to be improved, or offered as security for the loan.

(4) Where an application is recommended under sub-section (2), the Land Development Bank shall, in accordance with the rules made by it in this behalf, consider such application for the purpose of making the loan.

(5) Where no objection under sub-section (1) has been made, the questions at issue shall be decided by the person empowered to consider objections in such manner as he may deem proper and no person shall have any claim whatsoever including any claim arising out of a mortgage of any description against the property of the loanee for which the loan applied for is sanctioned, under the provisions of this Chapter, until such time as the loan together with interest thereon or any other dues arising out of the loan are paid in full.

Mortgage executed by managers of Hindu joint families or natural or legal guardians of minors or disabled persons.

44-P. (1) Mortgages, in respect of loans by a Land Development Bank either before or after the commencement of the Bihar Co-operative Societies (Amendment) Act, 1970, by the Manager of a Hindu joint family or the natural or legal guardian of a minor or disabled person for any of the purposes specified in section 44-B, shall be binding on every member of such Hindu joint family, or such minor or disabled person, notwithstanding any law to the contrary.

(2) Subject to the provision of sub-section (1), where a mortgage executed in favour of a Land Development Bank, either before or after the commencement of the Bihar Co-operative Societies (Amendment) Act, 1970, is called in question on the ground that it was executed by the Manager of a Hindu joint family or a natural or legal guardian of a minor or disabled person for a purpose not binding on the members of such Hindu joint family or such minor or disabled person, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

Order granting loan conclusive of certain matters.

44-Q. A written order by the Land Development Bank, or persons or managing committees authorised by this Chapter, or under the bye-laws of the bank to make loans for all or any of the purposes specified in section 44-B, granting either before or after the commencement of the Bihar Co-operative Societies (Amendment) Act, 1970 a loan to or with the consent of a person mentioned therein for the benefit of the land or for the productive purpose specified therein, shall be conclusive of the following matters, namely:—

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 44-B;

(*b*) that the person had on the date of the order a right to make such improvement or incur expenditure for such productive purpose, as the case may be; and

(*c*) that the improvement is one benefiting the land specified and the productive purpose concerns the land offered as security or any part thereof as may be relevant.

Recovery of loans by Land Development Bank.

44-R. Any loan granted by a Land Development Bank, including any interest chargeable thereon and such cost, if any, as may be prescribed incurred in connection therewith shall, when they become due, be recoverable by the bank concerned:

Provided that such loan, interest or cost may be recoverable also by the State Co-operative Land Development Bank even if the loan has been granted by a Primary Co-operative Land Development Bank affiliated to it.

Collector to make recoveries during certain period.

44-S. (*1*) During such period as the State Government may, by general or special order, notify in the Official Gazette, it shall be competent for the Collector, on application being made to him in this behalf by a Land Development Bank, to recover all sums due to the Bank, including the cost of such recovery.

(*2*) The Collector or any person specially authorised by him in this behalf, shall recover all sums due to a Land Development Bank in the following order and manner, namely:—

(*a*) from the borrower as if they were arrears of land revenue due by him;

(*b*) out of the land for the benefit of which the loan has been granted as if they were arrears of land revenue in respect of that land;

(*c*) from a surety, if any, as if they were arrears of land revenue due by him; and

(*d*) out of the property comprised in the collateral security, if any, according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due.

(*3*) The provisions of this section shall be subject to any tenancy law for the time being in force.

Distraint and sale.

44-T. (*1*) If any instalment payable under a mortgage executed in favour of a Land Development Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the managing committee of such a bank or the Board may, in addition to any other remedy available to the Bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale of the produce of the mortgaged land, including the standing crops thereon, and any other movable property of the defaulter in the manner prescribed. On receipt of such application, the Registrar may, after giving registered notice to the

4 of 1882. mortgagor, notwithstanding anything contained in the Transfer of Property Act, 1882 direct distraint and sale of such produce and, if necessary, also of such other movable property of the defaulter:

Provided that such implements of husbandry other than the implements mortgaged to the Land Development Bank, and such cattle of the defaulter as may, in the opinion of the Registrar, be necessary to enable the defaulter to earn his livelihood as an agriculturist shall not be liable for such distraint and sale:

Provided further that no such distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(2) The value of the property distrained shall be, as far as may be, equal to the amount due, and the expenses of the distraint and the costs of the sale.

Powers of sale when to be exercised.

4 of 1882. 44-U. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, where a power of sale without the intervention of the court is expressly conferred on a Land Development Bank by the mortgage deed, the managing committee of such bank or the Board or any person authorised by such managing committee or the Board in this behalf shall, in case of default of payment of mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the court.

(2) No such power shall be exercised unless and until—

(a) the Board has previously authorised the exercise of the power conferred by sub-section (1) after considering the representation, if any, of the mortgagor;

(b) the registered notice requiring payment of such mortgage money or part thereof has been served upon—

(i) the mortgagor;

(ii) any person who has any interest in, or charge upon, the property mortgaged or in or upon the right to redeem the same;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made, in payment of such mortgage-money or part thereof, for three months after service of notice in this behalf.

Powers of Land Development Bank where mortgaged property is destroyed or security becomes insufficient.

44-V. Where any property mortgaged to a Land Development Bank is wholly or partialy destroyed or for any reason the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity, by the managing committee of the said bank or the Board, of providing further security enough to make the whole security sufficient or of repaying such portion of the loan as may be determined by the managing committee or the Board, has failed

to provide such security or to repay such portion of the loan, the whole of the loan shall, notwithstanding its terms and conditions, be deemed to fall due at once and the managing committee or the Board shall be entitled to take action against the mortgagor, under section 44-S or section 44-T or section 44-U, for the recovery thereof.

Explanation.—For the purpose of this section, security shall be deemed to be insufficient unless the value of the mortgaged property, including improvement thereon, exceeds the amount for the time being, due on the mortgage by such proportion as may be specified in the rules or the bye-laws of the Land Development Bank.

Power of the Board or Trustee to take action against defaulters.

44-W. (*1*) The Board or the Trustee may direct the managing committee of a Primary Co-operative Land Development Bank to take action against a defaulter under section 44-S, 44-T, 44-U or 44-V and if the managing committee neglects or fails to do so, the Board or the Trustee may take such action. The Trustee may direct the Board to take similar action against a defaulter and on the Board's neglect or failure to do so, may take such action himself.

(2) Where an action is taken under the provisions of sub-section (*1*) by the Board, the provisions of this Chapter or any rules made in pursuance thereof shall apply as if all references therein to a Primary Co-operative Land Development Bank and its managing committee were references to the State Co-operative Land Development Bank and the Board.

(*3*) Where an action is taken under the provisions of sub-section (*1*) by the Trustee, the provisions of this Chapter or any rules made in pursuance thereof shall apply as if all references therein to Primary Co-operative Land Development Bank or its managing committee or the State Co-operative Land Development Bank or the Board were references to the Trustee.

confirmation of sale.

44-X. (*1*) Where any mortgaged property is sold under the provisions of section 44-U by a Primary Land Development Bank, the Bank shall, in the manner prescribed, submit to the State Co-operative Land Development Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale. Where the sale is made by the State Co-operative Land Development Bank or the Trustee and the Trustee is a person other than the Registrar, similar report shall be submitted by the Board or the Trustee, as the case may be, to the Registrar.

(*2*) After the report aforesaid has been submitted to the Registrar, the managing committee of a Primary Co-operative Land Development Bank or the Board or the Trustee, as the case may be, may with the approval of the Registrar, confirm or cancel the sale within one hundred and twenty days of the date of sale.

(*3*) Where the Registrar is the Trustee and has taken action pursuant to sub-section (*1*) of section 44-W, he may confirm or cancel the sale of the mortgaged property of his own motion or on the application of a Land Development Bank within one hundred and twenty days from the date of sale.

(4) Upon the mortgagor or any person having a right, title or interest in the mortgaged property applying to the managing committee of a Land Development Bank or the Board or the Trustee or the Registrar, as the case may be, for setting aside the sale after having deposited at the office of the Land Development Bank concerned such sums of money as may be sufficient for payment of the amount specified in the notice served under clause (b) of sub-section (2) of section 44-U together with subsequent interest and costs, if any, incurred during the process of sale and a commission, for payment to the purchaser, of a sum equal to five per cent of the purchase money deposited by him, the sale of the mortgaged property shall be cancelled under the provisions of sub-section (2) or (3) of this section.

(5) When sale is confirmed under the provisions of this section it shall become absolute and shall be deemed to be absolute for the purpose of the Code of Civil Procedure, 1908.

5 of 1908.

Disposal of sale-proceeds.

44-Y. (1) The proceeds of the sale, effected under this Chapter, shall be applied first to the payment of all costs, charges and expenses incurred in connection with the sale or attempted sale, secondly to the payment of any or all interest due on account of the mortgage in consequence whereof the mortgaged property was sold, and, thirdly to the payment of the principal due on account of the mortgage including costs and charges incidental to the recovery.

(2) If there remains any residue from the proceeds of sale, referred to under sub-section (1), the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one to such persons upon their joint receipt or according to their respective interest therein:

Provided that, before such payments are made, the unsecured dues owing from the mortgagor to the Land Development Bank may be adjusted.

Certificates of purchase, delivery of property and title of purchaser.

44-Z. (1) Where a sale of mortgaged property has become absolute, the Bank shall grant a certificate to the purchaser, in the prescribed form, specifying the property sold, the sale-proceeds, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute, and upon the production of such certificate, the Sub-Registrar appointed under the Indian Registration Act, 1908 within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated shall enter a copy of such certificate in his relevant book maintained for such purpose.

16 of 1908.

(2) Where a mortgaged property is sold under the provisions of this Chapter and a certificate is granted to the purchaser under the provisions of sub-section (1), the Collector shall on the application of the purchaser, his heir or successor-in-interest, order delivery of possession to be made to such a person and shall put in possession such a person or his nominee.

Title of purchaser not to be questioned on ground of irregularities, etc.

44-AA. Where any property is sold in exercise of power of sale under this Chapter, the title of the purchaser shall not be questioned on the ground that—

(*a*) the circumstances required for authorising the sale had not arisen,

(*b*) due notice of the sale was not given, or

(*c*) the power of sale was otherwise improperly or irregularly exercised,

but any person who has suffered any damage by an unauthorised, improper or irregular exercise of such power is entitled to have a remedy in damage against the Land Development Bank.

Mortgage not to be questioned on insolvency of mortgagors.

44-AB. Notwithstanding anything in any law relating to insolvency, a mortgage executed in favour of a Land Development Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Land Development Bank a preference over the other creditors of the mortgagor.

Appointment of receiver and powers.

44-AC. (*1*) The Board may, of its own motion or on the application of a Primary Land Development Bank and under circumstances in which the power of sale conferred by section 44-U may be exercised, appoint in writing a person other than a member of the managing committee of the Land Development Bank concerned to be the receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, or both, as the case may be, to retain out of any money realised by him his expenses of management including his remuneration, if any, as fixed by the Board and to apply the balance in accordance with the provisions of sub-section (*8*) of section 69-A of the Transfer of Property Act, 1882. 4 of 1882.

(*2*) The Board may, for sufficient cause, remove such receiver on an application made by the mortgagor and fill the vacancy in the office of the receiver.

(*3*) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a competent court.

Restriction in lessees.

44-AD. (*1*) Notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, no mortgagor of property mortgaged to a Land Development Bank shall, except with the prior consent in writing of the bank and subject to such terms and conditions as the bank may impose, lease or create any tenancy rights or any other right, title or interest in any such property: 4 of 1882.

Provided that, the rights of the Land Development Bank shall be enforceable against the lessee or the tenant, or any other person as the case may be, as if he himself were a mortgagor.

(2) Where the land, mortgaged with possession to a Land Development Bank, is in actual possession of a tenant, the mortgagor or the Land Development Bank shall give notice to the tenant to pay rent to the Land Development Bank during the currency of the lease and the mortgage and on such notice being given, the tenant shall be deemed to have attorned to the Land Development Bank.

Registration of documents executed on behalf of a Land Development Bank.

44-AE. (1) Notwithstanding anything in the Indian Registration Act, 1908, it shall not be necessary for any officer of a Land Development Bank to appear in person or by any agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

16 of 1908.

(2) Where any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he thinks fit, refer to the aforesaid officer of the Land Development Bank for any information in respect thereof, and on being satisfied of the execution thereof, shall register the instrument.

Delegation of certain powers by Board.

44-AF. The Board, if it thinks fit, may delegate all or any of its powers under section 44-U, 44-W, 44-X or 44-AC to an Executive Committee consisting of three or more of its members constituted by it.

Provisions of the Transfer of Property Act, 1882 to apply to notices under this Chapter.

44-AG The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 and of any rule made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply so far as may be, in respect of all notices to be served under this Chapter.

4 of 1882.

Board's power of supervision over Primary Co-operative Land Development Banks.

44-AH. Subject to the provisions of this Act, the Board shall have such powers of supervision over the Primary Co-operative Land Development Banks, including powers of inspection of account-books and proceedings of such banks, as may be prescribed by rules.

Power to make rules.

44-AI. (1) The State Government may, after previous publication, make rules for carrying into effect the purposes of this Chapter.

(2) Such rules may provide for all or any of the following matters, namely:—

(a) the manner of effecting distraint under this Chapter, the custody, preservation and sale of distrained property; immediate sale of perishable articles where such articles are distrained;

(*b*) conduct of the sale of the property mortgaged to Land Development Banks, appointment of sale officers, recovery of expenses of such sale, deposit of the purchase money in connection therewith and re-sale of the mortgaged property where purchase money is not deposited in sale proceedings;

(c) submission of returns and reports by Primary Co-operative Land Development Banks to the State Co-operative Land Development Bank in respect of their transactions, periodical statement of accounts between the Primary Co-operative Land Development Banks and the State Co-operative Land Development Bank, payment of amounts recovered by the Primary Co-operative Land Development Banks on mortgages transferred to the State Co-operative Land Development Bank, the form in which application to Land Development Banks for loans may be made, the properties offered as security for such loans, the investment of moneys realised by Land Development Banks from the mortgagors and matters generally relating to the conduct of business of Land Development Banks; and

(*d*) all matters expressly required or allowed in this Chapter to be prescribed by rules.".

Savings and validation.

3 Notwithstanding the expiration of the Bihar Co-operative Societies Third (Amendment) Ordinance, 1968, all actions taken and things done (including rules or orders made, notifications or notices issued, loans granted, mortgage deeds or other instruments executed and any rights, privileges, obligations or liabilities acquired, accrued or incurred in connection therewith) during the period commencing from the promulgation of the Bihar Co-operative Societies (Amendment) Ordinance, 1968, and ending with the commencement of the Bihar Co-operative Societies (Amendment) Act, 1970, shall be deemed to have been validly done or taken as if this Act had been in force at all material times. Bihar Ordinance XII of 1968. Bihar Ordinance II of 1968.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India

Reasons for the enactment

The importance of advancing long-term loans, through the medium of the Land Development Banks, has quite increased. In this direction a big programme has been adopted. But the loaning procedure of the Land Development Bank is based on the mortgages of land for speedy execution of which the existing Co-operative Law needs amendments. Some progressive States have achieved this objective by inserting a special Chapter to their Co-operative Societies Acts Accordingly, an appropriate Chapter was added to the Bihar and Orissa Co-operative

Societies Act, 1935 by promulgation of the Bihar Co-operative Societies (Amendment) Ordinance, 1968 (Bihar Ordinance II of 1968) the Bihar Co-operative Societies (Second Amendment) Ordinance, 1968 (Bihar Ordinance V of 1968), and the Bihar Co-operative Societies Third (Amendment) Ordinance, 1968 (Bihar Ordinance XII of 1968).

2. Though a Bill to replace the Bihar Co-operative Societies Third (Amendment) Ordinance, 1968 was introduced in the Bihar State Legislature, it could not be passed into law due to the dissolution of the State Legislative Assembly, consequent on the Presidential Proclamation, dated 29th June, 1968.

3. Subsequently, in view of the oncoming mid-term polls in the State of Bihar, it was not considered, then, necessary to enact President's Act for replacing the Bihar Ordinance XII of 1968. Thereafter, before that Ordinance could be replaced by the Act of the State Legislature, the State Legislature was suspended by the Proclamation of the Vice-President, acting as President, dated 4th July, 1969

4. The proposed measure seeks to replace the Bihar Co-operative Societies Third (Amendment) Ordinance, 1968 (Bihar Ordinance XII of 1968).

5. The Committee constituted under the proviso to sub-section (2) of section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1969 (32 of 1969) has been consulted before the enactment of this measure as a President's Act.

M. A. QURAISHI,

Addl. Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and
Co-operation.

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